

EXHIBIT

2

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 GREENVILLE DIVISION

4 _____
5 ULTIMA SERVICES CORPORATON,

6 Plaintiff,

7 v.

Case No.

8 U.S. DEPARTMENT OF

2:20-cv-00041-DCLC-CRW

9 AGRICULTURE, ET AL.,

10 Defendants.
11 _____

12 DEPOSITION OF CELESTE BENNETT

13 DATE: Wednesday, March 16, 2022

14 TIME: 9:34 a.m.

15 LOCATION: Remote Proceeding - DC

16 Virtual Zoom

17 Washington, DC 20005

18 REPORTED BY: Shondra Dawson, Notary Public

19 JOB No.: 5106847
20
21
22

Page 2	Page 4
<p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF PLAINTIFF:</p> <p>3 MICHAEL E. ROSMAN, ESQUIRE</p> <p>4 Center for Individual Rights</p> <p>5 1100 Connecticut Avenue NW, Suite 635</p> <p>6 Washington, DC 20036</p> <p>7 rosman@cir-usa.org</p> <p>8 202-833-8402</p> <p>9</p> <p>10 ON BEHALF OF DEFENDANTS:</p> <p>11 JULIET GRAY, ESQUIRE</p> <p>12 Department of Justice Civil Rights Division</p> <p>13 Employment Litigation Section</p> <p>14 150 M Street, NE</p> <p>15 Washington, DC 20530</p> <p>16 Juliet.gray@usdoj.gov</p> <p>17 202-598-1600</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 K'Shaani Smith, Counsel for Plaintiff</p> <p>21 Michelle Scott, Counsel for Defendant</p> <p>22</p>	<p>1 P R O C E E D I N G S</p> <p>2 REPORTER: This is an audio test of</p> <p>3 5106487. This is an audio test. Ultima Services</p> <p>4 Corporation versus U.S. Department of Agriculture, et</p> <p>5 al. This is an audio test. This is a second audio</p> <p>6 test. This is a second audio test.</p> <p>7 ELECTRONIC FEMALE VOICE: Recording in</p> <p>8 progress.</p> <p>9 REPORTER: Good morning. My name is</p> <p>10 Shondra Dawson. I am the reporter assigned by</p> <p>11 Veritext to take the record of this proceeding. We</p> <p>12 are now on the record at 9:34 a.m. This is the</p> <p>13 deposition of Celeste Bennett/Ultima Services</p> <p>14 Corporation taken in the matter of Ultima Services</p> <p>15 Corporation versus the U.S. Department of Agriculture,</p> <p>16 et. al, on March 16, 2022, remote via Zoom.</p> <p>17 I am a notary authorized to take</p> <p>18 acknowledgements and administer oaths in the District</p> <p>19 of Columbia. Parties agree that I will swear in the</p> <p>20 witness remotely outside of his or her presence.</p> <p>21 Additionally, absent an objection on</p> <p>22 the record before the witness is sworn, all parties</p>
Page 3	Page 5
<p>1 I N D E X</p> <p>2 PAGE</p> <p>3 By Ms. Gray 11</p> <p>4</p> <p>5 E X H I B I T S</p> <p>6 NO. DESCRIPTION PAGE</p> <p>7 Exhibit 1 Lusa SAM.gov Entry 35</p> <p>8 Exhibit 2 3/16/18 Email from Ms. Bennett</p> <p>9 To NRCS 149</p> <p>10 Exhibit 3 4/20/18 Email to</p> <p>11 NRCS South Dakota 153</p> <p>12 Exhibit 4 Complaint 158</p> <p>13 Exhibit 5 Plaintiff Initial Disclosure 170</p> <p>14 Exhibit 6 3/28/18 USDA Memorandum 174</p> <p>15 Exhibit 7 2016 to 2021 Financial</p> <p>16 Documents for Ultima and Lusa 185</p> <p>17 Exhibit 8 Spreadsheet 206</p> <p>18 Exhibit 9 5/30/20 Wells Fargo</p> <p>19 Credit Application 222</p> <p>20</p> <p>21 (*Exhibits attached.)</p> <p>22</p>	<p>1 and the witness understand and agree that any</p> <p>2 certified transcript produced from the recording</p> <p>3 virtually of this proceeding is intended for all uses</p> <p>4 permitted under applicable, procedural and evidentiary</p> <p>5 rules and laws in the same manner as a deposition</p> <p>6 recorded by stenographic means and shall constitute</p> <p>7 written stipulation of such.</p> <p>8 At this time, will everyone in</p> <p>9 attendance, please identify yourself for the record?</p> <p>10 MS. GRAY: My name is Juliet Gray, and</p> <p>11 I represent the defendants in this matter.</p> <p>12 MR. ROSMAN: My name is Michael Rosman.</p> <p>13 I represent the plaintiff and the witness in this</p> <p>14 matter.</p> <p>15 MS. SMITH: My name is K'Shaani Smith -</p> <p>16 - sorry.</p> <p>17 THE WITNESS: Pardon me, K'Shaani.</p> <p>18 MS. SMITH: My name is K'Shaani Smith.</p> <p>19 I represent the defendant in this matter.</p> <p>20 THE WITNESS: And I'm Celeste Bennett,</p> <p>21 and I represent the plaintiff in this matter.</p> <p>22 MS. SCOTT: I'm Michelle Scott, and I</p>

<p style="text-align: right;">Page 42</p> <p>1 to say that there is overlap between a lot of the</p> <p>2 NAICS codes?</p> <p>3 A Not always. It depends.</p> <p>4 Q Okay. But what it sounds like you're saying</p> <p>5 is that work that you perform could potentially fall</p> <p>6 under many different NAICS codes.</p> <p>7 A Yes, it could.</p> <p>8 Q Okay. Could you generally describe this</p> <p>9 engineering services contract in Yuma, Arizona? What</p> <p>10 is the basic work that you're performing there?</p> <p>11 A So, we are a subcontractor. So, we are one</p> <p>12 of many subcontractors to a large business. And this</p> <p>13 contract is a full and open competition. So, we're</p> <p>14 just one of the subs. So, our work doesn't comprise</p> <p>15 all of the work under the contract. It provides, I</p> <p>16 guess, discrete sections that the prime has allocated</p> <p>17 to us. Specifically, we help with inventory</p> <p>18 management. We help with what's called data</p> <p>19 collection. We have heavy equipment mechanics. We</p> <p>20 have people who put sensors on things to test --</p> <p>21 Let me back up. That contract is</p> <p>22 established to test anything that someone in the</p>	<p style="text-align: right;">Page 44</p> <p>1 and then we'll take them over -- I'm not sure if</p> <p>2 you're familiar with large contracts in this way. But</p> <p>3 if you have what's called a full and open competition</p> <p>4 in the government -- so, it's not set aside for</p> <p>5 veterans or whatever. A lot of times, they have the</p> <p>6 set-aside requirements fall under the prime. So, I'm</p> <p>7 sorry. I'm getting a brain fart. What was your</p> <p>8 question? Because it's important that I tell you.</p> <p>9 So, the prime will have the responsibility</p> <p>10 for the work, but the government requires that they</p> <p>11 have so much of the prime maybe revenue dollars</p> <p>12 distributed among different socioeconomic small</p> <p>13 business set-asides. And so, sometimes, the prime has</p> <p>14 people already there, and then I might assume them,</p> <p>15 either from the prime or from another subcontractor.</p> <p>16 So, I don't always assist in recruiting. It just</p> <p>17 depends on what's happening.</p> <p>18 Q One of the NAICS codes you have listed here</p> <p>19 is for the postal service. What kind of work does</p> <p>20 Lusa do in that industry?</p> <p>21 A So, Ultima has performed that work for Fort</p> <p>22 Riley, Kansas. So, Lusa can perform that same work.</p>
<p style="text-align: right;">Page 43</p> <p>1 infantry might use in the field. So, before, let's</p> <p>2 say, a DOD company contractor makes a missile or a</p> <p>3 drone or anything or like a vehicle that might be</p> <p>4 deployed to the field, then this field contract -- and</p> <p>5 there are multiple types of contracts like this -- is</p> <p>6 used to test all of that in the environment it's meant</p> <p>7 to be used in to make sure that it's safe and</p> <p>8 effective for the soldiers who would use it on the</p> <p>9 battlefield.</p> <p>10 So, we're assisting in some capacity on</p> <p>11 those tests, but it can change, because tests change.</p> <p>12 Q And is this the contract with TRAX</p> <p>13 International?</p> <p>14 A Yes. TRAX is the prime contractor, and then</p> <p>15 we're one of the subcontractors.</p> <p>16 Q How long has Lusa had this contract?</p> <p>17 A We've had it for maybe since 2018, or we've</p> <p>18 been working on it, like when we were given some work.</p> <p>19 Q So, when you say, for example, you have</p> <p>20 heavy equipment mechanics, you just recruit and hire</p> <p>21 people with that specific experience. Right?</p> <p>22 A Yeah. So, either they have people on site,</p>	<p style="text-align: right;">Page 45</p> <p>1 So, we've actually performed a postal operations</p> <p>2 contract for the Army under Ultima.</p> <p>3 Q Okay. So, as long as one of your businesses</p> <p>4 has performed the work, you feel that you can</p> <p>5 represent that you have the capabilities to perform</p> <p>6 for the other business to perform that work?</p> <p>7 A Not necessarily, because I might have</p> <p>8 something on here that we've never done, but I feel</p> <p>9 like we could do. You have to understand when</p> <p>10 contracting officers sometimes assign a NAICS code...</p> <p>11 I'll give you an example of NASA. NASA has a NAICS</p> <p>12 code for a contract I was interested in that says it's</p> <p>13 like -- I don't know -- biological research or</p> <p>14 something.</p> <p>15 But when you talk to the contracting</p> <p>16 officer, they say, "No. This is just like a..." It</p> <p>17 would be more like a 541641. It's just they pick it</p> <p>18 because that's the group where the people are doing</p> <p>19 the work. So, it can just depend. So, you don't want</p> <p>20 to be overlooked because some contracting officer puts</p> <p>21 it under this NAICS code, but the work actually</p> <p>22 matches what you can do. Does that make sense to you?</p>

Page 50	Page 52
<p>1 remember when. Maybe --</p> <p>2 Q Did you -- I'm sorry.</p> <p>3 A Sorry. Go ahead.</p> <p>4 Q Were you finished?</p> <p>5 A Yes.</p> <p>6 Q Okay. You said someone at the SBA told you</p> <p>7 to do it that way. Who was that?</p> <p>8 A I don't know. It was a lady I talked -- She</p> <p>9 was an analyst. So, when you apply for the program,</p> <p>10 you do it online. And then, at some point, they</p> <p>11 assign you an analyst. And I think I was getting</p> <p>12 rejected. I didn't understand. So, it was some lady</p> <p>13 who kind of walked me through what I was doing wrong</p> <p>14 and how to interpret the HUBZone regulations, because</p> <p>15 reading them doesn't really make sense to me.</p> <p>16 But when she told me, "Okay. This is what</p> <p>17 you have to do. This is what we are looking for, and</p> <p>18 this is how we interpret it," then that's when I made</p> <p>19 those changes. I don't remember her name.</p> <p>20 Q Okay. Was that someone based in the D.C.</p> <p>21 headquarters or in one of the field offices?</p> <p>22 A I don't know. I don't know.</p>	<p>1 Q So, Lusa's an S-corporation. Is that right?</p> <p>2 A Yes.</p> <p>3 Q Okay. And has that been since the business</p> <p>4 was formed?</p> <p>5 A It might have been a C-corp at one time, and</p> <p>6 I changed it to an S-corp, but that would have been I</p> <p>7 think before we had any business.</p> <p>8 Q Is it correct that you are the president,</p> <p>9 vice president, treasurer, and secretary of Lusa?</p> <p>10 A Yes.</p> <p>11 Q Are there any other officers of Lusa? I'm</p> <p>12 sorry. I don't know if you said anything, but I</p> <p>13 didn't hear it.</p> <p>14 A Oh, sorry. No, there are no other officers.</p> <p>15 Q Okay. Have there ever been?</p> <p>16 A I think my ex-husband was one or more</p> <p>17 officers early on, but I don't remember what they</p> <p>18 would have been.</p> <p>19 Q Did he ever have any role in the operations</p> <p>20 or running of Lusa?</p> <p>21 A No.</p> <p>22 Q How many full-time employees does Lusa have?</p>
Page 51	Page 53
<p>1 Q Are you currently the sole owner of Lusa?</p> <p>2 A Yes.</p> <p>3 Q Have there ever been other owners?</p> <p>4 A Yes. So, my ex-husband used to be part</p> <p>5 owner of Lusa.</p> <p>6 Q Okay. And so, I understand that you</p> <p>7 recently went through a divorce. I'm very sorry about</p> <p>8 that, but I'm going to have to ask you -- Because I'm</p> <p>9 sure that's changed some of your assets and finances.</p> <p>10 So, I'm going to need to ask you sometimes, well, what</p> <p>11 was it before the divorce? And what is it after the</p> <p>12 divorce? So, was he the only other person who's ever</p> <p>13 had an ownership share of Lusa?</p> <p>14 A Yes.</p> <p>15 Q So, you are now 100 percent owner of Lusa.</p> <p>16 Right?</p> <p>17 A Yes.</p> <p>18 Q And as of when?</p> <p>19 A Sometime in October of 2021.</p> <p>20 Q Can you explain the organizational structure</p> <p>21 of Lusa?</p> <p>22 A So, I guess, what do you mean?</p>	<p>1 A Like as of today?</p> <p>2 Q Yes.</p> <p>3 A Maybe 20 to 25. Full-time employees? Oh, I</p> <p>4 don't know. Maybe around 20.</p> <p>5 Q Okay. Does that number fluctuate quite</p> <p>6 often?</p> <p>7 A It can, because we lost some contracts at</p> <p>8 the end of February. So, I'm guessing.</p> <p>9 Q Okay. So, when you hire someone to fulfill</p> <p>10 a contract, they actually become an employee of Lusa?</p> <p>11 A Correct.</p> <p>12 Q Like they get a W2 and that kind of thing.</p> <p>13 They're not 1099.</p> <p>14 A Yes. Yeah. It's very unusual to have a</p> <p>15 1099 employee in my experience. I don't think we've</p> <p>16 ever had one.</p> <p>17 Q Does Lusa have any core employees that are</p> <p>18 there to help you run the business that aren't</p> <p>19 necessarily tied to specific contracts?</p> <p>20 A Yes.</p> <p>21 Q And how many of those?</p> <p>22 A Maybe six. They're not all full-time.</p>

Page 66	Page 68
<p>1 Q So, how did you get Lusa started?</p> <p>2 A So, I think my accountant created articles</p> <p>3 of incorporation, and then I just submitted them to</p> <p>4 the state of Maryland.</p> <p>5 Q How much capital did you need to start Lusa?</p> <p>6 A I mean, almost none. I might have needed</p> <p>7 like a few hundred dollars for the state filing, and</p> <p>8 then maybe a couple thousand for the accountant. I</p> <p>9 don't remember. It wouldn't have been a substantial</p> <p>10 amount of money. It was to me at the time, but it</p> <p>11 wasn't millions of dollars.</p> <p>12 Q Did you need to get a loan to establish</p> <p>13 Lusa?</p> <p>14 A No. I had enough money of my own to</p> <p>15 establish Lusa.</p> <p>16 Q So, you said maybe a couple thousand. Was</p> <p>17 it less than \$5,000.00 to get started?</p> <p>18 A I would think so. I can't imagine how it</p> <p>19 would have been more than that.</p> <p>20 Q So, when you started it, did you just start</p> <p>21 it out of your home?</p> <p>22 A I lived in an apartment. I think it was in</p>	<p>1 would have had to go there.</p> <p>2 Q Okay. So, how did it come about that you</p> <p>3 came to own Ultima?</p> <p>4 A So, I knew the lady who owned Ultima, and I</p> <p>5 think she was -- I don't know. I'm assuming she was</p> <p>6 doing what I was trying to do. She was at her job,</p> <p>7 but she wanted to do her own thing. And then, she</p> <p>8 decided not to do her own thing. So, she approached</p> <p>9 me and said if I want to buy it from her, she's</p> <p>10 willing to sell it, because she knew I was trying to</p> <p>11 grow my business.</p> <p>12 Q How did you meet Ms. Hormell?</p> <p>13 A I don't know when I met her. I've known her</p> <p>14 -- I don't know -- for probably years before that</p> <p>15 time. So, I don't remember how I met her. I don't</p> <p>16 know. I just don't remember meeting her.</p> <p>17 Q So, you purchased Ultima from her?</p> <p>18 A Yes.</p> <p>19 Q And when did you purchase Ultima?</p> <p>20 A I think it was 2002. I think that might</p> <p>21 have been when I bought them.</p> <p>22 Q And how much did you pay for Ultima?</p>
Page 67	Page 69
<p>1 Silver Spring, Maryland at the time. So, yeah, out of</p> <p>2 there.</p> <p>3 Q And you were married at the time?</p> <p>4 A Yes.</p> <p>5 Q And you were employed, you said, at</p> <p>6 NationsBank at the time. Right?</p> <p>7 A It would have been either NationsBank or</p> <p>8 Bank of America, which bought NationsBank at some</p> <p>9 point.</p> <p>10 Q What was your salary there?</p> <p>11 A I don't remember. I started off I think at</p> <p>12 like \$30,000.00. And then, I think by the time I</p> <p>13 left, it might have been \$70,000.00, somewhere around</p> <p>14 there.</p> <p>15 Q And so, you established Lusa in Maryland.</p> <p>16 That's right?</p> <p>17 A Correct.</p> <p>18 Q Did you ever have a physical office in</p> <p>19 Maryland other than your home office?</p> <p>20 A I think I did. Going back to the HUBZone</p> <p>21 conversation, I think I had an office in Silver</p> <p>22 Spring, because I had Worku as an employee, and he</p>	<p>1 A So, Ultima had one contract. So, I paid</p> <p>2 maybe \$20,000.00 for the value of the contract.</p> <p>3 Q Who was the contract with?</p> <p>4 A U.S. Army at Fort Riley, Kansas.</p> <p>5 Q And what type of work was it for?</p> <p>6 A So, that work specifically was for alarm</p> <p>7 monitoring services where they would sit at a computer</p> <p>8 and watch different types of alarms that were going</p> <p>9 off on the base, maybe for arms rooms and -- I don't</p> <p>10 know -- like barracks. I don't know. I just don't</p> <p>11 remember. And then, they might dispatch the military</p> <p>12 police if there was an alarm, because I think it was</p> <p>13 an alarms monitoring and dispatch contract.</p> <p>14 Q Okay. And the employees were already in</p> <p>15 place working on that contract when you purchased</p> <p>16 Ultima?</p> <p>17 A Yes. At some point, we had hired new</p> <p>18 employees, but I think when I took it over, they were</p> <p>19 -- I continued with all of them.</p> <p>20 Q How many employees did Ultima have when you</p> <p>21 purchased it?</p> <p>22 A Maybe 10 people, something around there.</p>

<p style="text-align: right;">Page 70</p> <p>1 A Maybe 10 people, something around there.</p> <p>2 Q Were they all working on contracts, or were</p> <p>3 there any core employees?</p> <p>4 A So, they were all working on the contract,</p> <p>5 and one was a lead who was sort of paid a premium but</p> <p>6 managed the group.</p> <p>7 Q And when you purchased Ultima, did you</p> <p>8 become the sole owner?</p> <p>9 A For a time, I think that's correct. And</p> <p>10 then, I folded it under Lusa.</p> <p>11 Q I think Ultima is an S-corporation. Is that</p> <p>12 right?</p> <p>13 A I don't know if it was at the time I bought</p> <p>14 it, but I would have converted it to an S-corporation</p> <p>15 at some point.</p> <p>16 Q Okay.</p> <p>17 MR. ROSMAN: I'm sorry. Could I have</p> <p>18 that last question read back, please?</p> <p>19 REPORTER: "Was Ultima already an S-</p> <p>20 corporation?"</p> <p>21 MR. ROSMAN: Thank you.</p> <p>22 BY MS. GRAY:</p>	<p style="text-align: right;">Page 72</p> <p>1 status at the time.</p> <p>2 I don't know if Lusa had any status, but</p> <p>3 there were some reasons where I had a reason to have</p> <p>4 two companies. And then, I think I assumed there</p> <p>5 would be advantages to putting one as the parent,</p> <p>6 maybe like tax advantages, sort of systems advantages.</p> <p>7 Because then, everything can kind of be done under the</p> <p>8 parent, and then the sub would fall under that.</p> <p>9 So, I could get an insurance policy under</p> <p>10 the parent, but it would cover the sub, that kind of</p> <p>11 thing. So, I had to maintain two different entities.</p> <p>12 My intent, originally, was just to buy the contract,</p> <p>13 but I couldn't do that.</p> <p>14 MR. ROSMAN: I'm sorry. Could I have</p> <p>15 that question read back as well?</p> <p>16 REPORTER: "At some point, the sole" --</p> <p>17 Oh, sorry. "At some point, were you the sole owner of</p> <p>18 Lusa and then restructured Ultima as a subsidiary?"</p> <p>19 And when did she do that? I mean why. I'm sorry.</p> <p>20 Why did she do --</p> <p>21 MR. ROSMAN: Thank you.</p> <p>22 BY MS. GRAY:</p>
<p style="text-align: right;">Page 71</p> <p>1 Q Ms. Bennett, we learned from your attorney</p> <p>2 late yesterday afternoon that you'd recently made some</p> <p>3 changes to the corporate structure of Ultima and Lusa</p> <p>4 since you had responded to the defendant's discovery</p> <p>5 request. Is that right?</p> <p>6 A Yes.</p> <p>7 Q Okay. So, until recently, Ultima was a</p> <p>8 fully-owned subsidiary of Lusa. Is that right?</p> <p>9 A That's correct.</p> <p>10 Q And you said that at some point, when you</p> <p>11 purchased it, you were maybe the sole owner, but then,</p> <p>12 at some point, you structured it that way. Do you</p> <p>13 recall when you structured Ultima as a subsidiary of</p> <p>14 Lusa?</p> <p>15 A So, sort of. So, Lusa had to have had some</p> <p>16 contracts at that point, because I couldn't just keep</p> <p>17 one company. I had to keep two companies to maintain</p> <p>18 Ultima's contract. At least, that's how I understood</p> <p>19 it with the contracting officer at the time. So, I</p> <p>20 had to buy the entity of Ultima. And Ultima also had</p> <p>21 a security clearance, whereas Lusa didn't have a</p> <p>22 security clearance. And Lusa had maybe a HUBZone</p>	<p style="text-align: right;">Page 73</p> <p>1 Q Did you receive any kind of advice, like</p> <p>2 from your accountant or anyone, about how to structure</p> <p>3 Ultima and Lusa?</p> <p>4 A My accountant, I don't know what advice I</p> <p>5 got. Because I thought I knew a lot of stuff because</p> <p>6 I worked at banks. So, I might not have good advice.</p> <p>7 That's what I thought about myself back then. But I</p> <p>8 know my accountant wrote a letter to the IRS saying</p> <p>9 that Ultima now was a qualified S-chapter subsidiary</p> <p>10 company to Lusa. So, maybe. I don't know that we had</p> <p>11 to do anything else, but maybe that was because we'd</p> <p>12 start filing consolidated tax returns going forward.</p> <p>13 Q And did you structuring Ultima as a</p> <p>14 subsidiary provide you with any type of benefits?</p> <p>15 A I really don't know. Remember how you asked</p> <p>16 if I had received advice, and I assumed I knew stuff.</p> <p>17 I've seen a lot of complications from doing that.</p> <p>18 Because I realized over time, especially when Ultima</p> <p>19 had a lot of work -- Recently, as I tried to get out</p> <p>20 of certain states, I have to get out under Ultima and</p> <p>21 under Lusa. And I also had opened duplicate accounts</p> <p>22 that I shouldn't have opened.</p>

<p style="text-align: right;">Page 74</p> <p>1 So, I've been overpaying some of my taxes.</p> <p>2 There are some things that I didn't quite understand,</p> <p>3 just because every state's different. So, I would say</p> <p>4 it's possible there were tax advantages, and there are</p> <p>5 definitely some disadvantages as well.</p> <p>6 Q Did structuring Ultima to a subsidiary of</p> <p>7 Lusa affect your liability for Ultima?</p> <p>8 A So, this is another thing where I thought</p> <p>9 there might be a benefit to having the parent-</p> <p>10 subsidiary relationship. And when I was looking into</p> <p>11 it, I asked my benefits providers, like insurance and</p> <p>12 all that. Because both entities are still owned 100</p> <p>13 percent by me, they basically can have the same plan.</p> <p>14 I didn't have to amend my 401K plan or my medical</p> <p>15 benefits plan. And I don't know the legalese of it,</p> <p>16 but they're basically still affiliated the same as</p> <p>17 they were before.</p> <p>18 So, I'm sort of getting the same advantages</p> <p>19 in that way. I didn't understand if that was true.</p> <p>20 But to more answer your question, yes, I had to create</p> <p>21 a new insurance policy for Ultima in Ultima's name,</p> <p>22 and I just had to know the other benefits companies</p>	<p style="text-align: right;">Page 76</p> <p>1 gone.</p> <p>2 And now, I only have kind of the shell of</p> <p>3 the company. I have three people working for Ultima.</p> <p>4 If I was going to make any structural changes, this is</p> <p>5 the time to do it.</p> <p>6 Q And you mentioned needing to buy a new</p> <p>7 insurance policy. Have there been any other effects</p> <p>8 of restructuring Ultima and Lusa?</p> <p>9 A Yes. I guess I would say Ultima's business</p> <p>10 has kind of been decimated. So, it can't afford its</p> <p>11 own administrative staff, which used to be covered by</p> <p>12 the parent, like for processing payroll and invoicing</p> <p>13 and that sort of thing. So, to handle that, I'm not</p> <p>14 going to hire a new administrative person under Ultima</p> <p>15 that Ultima, quite honestly, can't afford. So, what I</p> <p>16 did is I created like a service agreement. So,</p> <p>17 basically, Ultima contracts with Lusa.</p> <p>18 And if Ultima has any administrative kind of</p> <p>19 needs, Lusa can perform that on an hourly basis, and</p> <p>20 then will bill Ultima probably quarterly. I'm not</p> <p>21 going to make it a big burden on myself. So, that</p> <p>22 way, I don't have to incur more costs on Ultima's</p>
<p style="text-align: right;">Page 75</p> <p>1 that Ultima's no longer owned by Lusa. I'm sorry if</p> <p>2 I'm rambling. I'm starting to --</p> <p>3 Q You're just talking about -- When you said</p> <p>4 you had to create a new insurance policy, that's when</p> <p>5 you made the recent change.</p> <p>6 A Yes. So, that is an example of where I</p> <p>7 would have had to make a change. So, for the</p> <p>8 benefits, I didn't have to make a change. The</p> <p>9 insurance, I didn't have to get a new policy</p> <p>10 underwritten for Ultima starting the date of the</p> <p>11 change. So --</p> <p>12 Q When did you make the change? I'm sorry.</p> <p>13 A Oh, it would be 1/1/2022.</p> <p>14 Q And what prompted that change?</p> <p>15 A Well, it's just administratively easier for</p> <p>16 me at this point. 1.) At the beginning of our</p> <p>17 calendar or fiscal year, it's easier for accounting</p> <p>18 purposes. And then, it's kind of the only time I</p> <p>19 could make the change, because Ultima used to have</p> <p>20 like hundreds of employees, and they operated in many</p> <p>21 different states. And we're here, because I haven't</p> <p>22 been able to compete for that work. So, that work's</p>	<p style="text-align: right;">Page 77</p> <p>1 side.</p> <p>2 Q Are you the president, vice president,</p> <p>3 treasurer, and secretary of Ultima?</p> <p>4 A Yes.</p> <p>5 Q And that was before and after the recent</p> <p>6 change?</p> <p>7 A That's correct.</p> <p>8 Q Have there ever been any other officers of</p> <p>9 Ultima?</p> <p>10 A Other than the prior owner, no.</p> <p>11 Q But she wasn't an officer after you</p> <p>12 purchased it. Correct?</p> <p>13 A Correct.</p> <p>14 Q So, I think you said that it cost you</p> <p>15 \$20,000.00 to purchase Ultima. Is that right?</p> <p>16 A Around there. It could have been a little</p> <p>17 more, a little less. I don't remember.</p> <p>18 Q And did you need to get a loan for that, or</p> <p>19 did you have that kind of money available?</p> <p>20 A I wasn't creditworthy at all in terms of my</p> <p>21 business, but I did get a loan from my father for</p> <p>22 whatever that amount was.</p>

Page 78	Page 80
<p>1 A Yeah.</p> <p>2 Q Did you pay your father back?</p> <p>3 A Yes. I don't know when, but I think it was</p> <p>4 within the first few years, because I didn't even pay</p> <p>5 myself for like the first five years. So, I don't</p> <p>6 know when I paid him, but it would have been earlier</p> <p>7 than the first five years of Lusa.</p> <p>8 Q Did he charge you interest?</p> <p>9 A I doubt it, but I don't know. I might have</p> <p>10 paid him interest just to kind of say thanks, like</p> <p>11 given him some extra money as a thank-you, but I don't</p> <p>12 recall if he charged me interest or not.</p> <p>13 Q Did you pay it all back in a lump sum, or</p> <p>14 did you make payments over time?</p> <p>15 A I don't recall.</p> <p>16 Q When you purchased Ultima, where was it</p> <p>17 incorporated?</p> <p>18 A Out of the state of New Mexico.</p> <p>19 Q Do you know why Ms. Hormell established it</p> <p>20 in New Mexico?</p> <p>21 A She's from New Mexico.</p> <p>22 Q And Ultima's principal place of business is</p>	<p>1 not, or if she just kind of worked from her house.</p> <p>2 So, then there was a time when my husband got accepted</p> <p>3 to business school in New York City.</p> <p>4 And I was like, "What am I going to do? I</p> <p>5 can't afford -- What are we doing?" So, I was like,</p> <p>6 "I can't afford rent in New York City. There's no</p> <p>7 way. I can't afford our apartment in New York City."</p> <p>8 So, we looked around, and then we got an office space</p> <p>9 in Greenville, which was so much more affordable. And</p> <p>10 also, the whole county is a HUBZone.</p> <p>11 So, if we want to pursue HUBZone or not --</p> <p>12 which I don't know what we were doing at the time,</p> <p>13 because it kind of comes and goes. But then, that was</p> <p>14 a good location for us. And then, I could just work</p> <p>15 from my apartment, but our office would be in</p> <p>16 Tennessee. So, we maintained that. Really, to this</p> <p>17 day, both companies have been based out of there. And</p> <p>18 that might have been over 10 years ago, at this point,</p> <p>19 that we did that.</p> <p>20 Q Did you purchase the office, or did you</p> <p>21 lease it?</p> <p>22 A We just lease it.</p>
Page 79	Page 81
<p>1 Greenville, Tennessee. Is that right?</p> <p>2 A That's correct.</p> <p>3 Q When you purchased it, was it located in</p> <p>4 Greenville, Tennessee?</p> <p>5 A No.</p> <p>6 Q Why did you locate it in Greenville,</p> <p>7 Tennessee?</p> <p>8 A So, remember how I said there was a lead for</p> <p>9 the contract on the alarm monitoring? Remember the</p> <p>10 contract? So, over time, I had grown my work out at</p> <p>11 Fort Riley, and that lead became more of a manager for</p> <p>12 me. And there was a point a couple of things change.</p> <p>13 There was a point where her mother got very ill. So,</p> <p>14 she needed to move to Greenville where her mother</p> <p>15 lived. So, she was just wonderful for me, and she was</p> <p>16 very loyal and helpful.</p> <p>17 So, I said, "Why don't we create something</p> <p>18 where you can work out of there? And then, I can keep</p> <p>19 you on." And at that point, I think we had an office</p> <p>20 in Jacksonville where I was living at the time --</p> <p>21 Jacksonville, Florida. So, I was fine, and that</p> <p>22 worked. And I don't know if we had an office then or</p>	<p>1 Q It's in the same location for around 10</p> <p>2 years.</p> <p>3 A It's been, yeah, for the whole time.</p> <p>4 Q Does that employee who was from Greenville</p> <p>5 still work for you?</p> <p>6 A Yes.</p> <p>7 Q What is her name?</p> <p>8 A She's just part-time now. Oh, Valerie</p> <p>9 Haubrich. So, she was full-time working out of that</p> <p>10 location with some other people, and then that changed</p> <p>11 after COVID, plus when we lost a lot of work. And we</p> <p>12 had to designate a principal HUBZone location. We had</p> <p>13 a lot of changes kind of coincide with those things.</p> <p>14 Q Have you ever lived in Tennessee?</p> <p>15 A No. I mean I would. It's a good place to</p> <p>16 go if you retire.</p> <p>17 Q How long is the lease for, for that</p> <p>18 building?</p> <p>19 A I mean for our office space, it's kind of a</p> <p>20 strip mall. So, we're not leasing the building.</p> <p>21 We're leasing sort of a space in the building. It was</p> <p>22 for a year, but we just kind of go month to month</p>

Page 102	Page 104
<p>1 You get successful because you've proven</p> <p>2 your ability as a partner to them. It's not like I'm</p> <p>3 just putting a price list for buying beakers, and I'm</p> <p>4 cheapest. So, when they took all that work away, we</p> <p>5 can bid on things, but it's very hard for us to be</p> <p>6 successful. Nobody knows us. We managed ourselves to</p> <p>7 make sure NRCS is our client, and there was no way I</p> <p>8 could have foreseen this ever happening. I had never</p> <p>9 in my life seen this.</p> <p>10 For the better part of 18 years, or since</p> <p>11 2004, all of my work with NRCS was competed for small</p> <p>12 businesses. So, I would have never thought that, all</p> <p>13 of a sudden, it's just going to be taken out of the</p> <p>14 competitive landscape. It's been very difficult for</p> <p>15 us.</p> <p>16 Q I understand what you're saying. These</p> <p>17 things that you're describing like the newsletter and</p> <p>18 the binder that some of your employees created, would</p> <p>19 you say that those are things that Ultima did that</p> <p>20 went above and beyond the requirements of the</p> <p>21 contract?</p> <p>22 A I would say they ensured we met the</p>	<p>1 Q Did Ultima bill NRCS for the work it put</p> <p>2 into the newsletter?</p> <p>3 A No, but we would distribute it to the</p> <p>4 contracting office or to our clients on occasion.</p> <p>5 Some of them liked to get it, but we never billed for</p> <p>6 it.</p> <p>7 Q Has Ultima ever contracted with entities</p> <p>8 other than the federal government?</p> <p>9 A Yes.</p> <p>10 Q Private companies?</p> <p>11 A Private companies performing federal</p> <p>12 contracts. So, it was to perform government services.</p> <p>13 But we have on, I think, two occasions contracted with</p> <p>14 county-level entities at our sister organization sort</p> <p>15 of on a county level to NRCS, called conservation</p> <p>16 districts, but those are still intertwined with NRCS</p> <p>17 in a way.</p> <p>18 Q Those are not federal contracts.</p> <p>19 A They're not federal contracts, but they</p> <p>20 might be funded by federal dollars under an agreement,</p> <p>21 but the money's paid to us by the county.</p> <p>22 Q So, would you say that the vast majority of</p>
Page 103	Page 105
<p>1 requirements of the contract, because they were not</p> <p>2 required. They were not required in the sense that we</p> <p>3 didn't have to require them. But if we wanted to win</p> <p>4 on a best value, we had to show that we were different</p> <p>5 than other bidders. So, it wasn't really a -- We were</p> <p>6 still meeting the requirements of the contract. We</p> <p>7 were just doing the best job at meeting the</p> <p>8 requirements of the contract.</p> <p>9 So, it's not like we were out of scope or</p> <p>10 anything. We were just showing... Anybody can meet</p> <p>11 basic requirements. You can just put in Joe Schmo,</p> <p>12 lady off the street, who has basic computer skills.</p> <p>13 What we were saying is, "We care more, and we're going</p> <p>14 to do a great job." And from my own personal</p> <p>15 experience, the agency really benefitted from that</p> <p>16 approach. So, we just had a very strong customer</p> <p>17 service approach in meeting the requirements of the</p> <p>18 contract.</p> <p>19 Q So, the newsletter, for example, was that</p> <p>20 part of the contract for Ultima to create a</p> <p>21 newsletter?</p> <p>22 A No.</p>	<p>1 Ultima's contracts have been with the federal</p> <p>2 government?</p> <p>3 A Yes. And with NRCS, specifically.</p> <p>4 Q What about for Lusa? Does Lusa contract</p> <p>5 with entities other than the federal government?</p> <p>6 A Other than private companies who are doing</p> <p>7 work for the federal government, no.</p> <p>8 Q Lusa has never contracted with state or</p> <p>9 local governments.</p> <p>10 A No, but Lusa has a service agreement with</p> <p>11 Ultima. So, I don't know if that counts or not.</p> <p>12 Q Approximately how many contracts does Ultima</p> <p>13 bid on each year?</p> <p>14 A It really depends. Recently, almost none.</p> <p>15 Q Why is that?</p> <p>16 A Well, I could never decide what to do,</p> <p>17 because we have a lawsuit. And our past performance</p> <p>18 on some of our contracts has started to show up as</p> <p>19 satisfactory (inaudible), and that's like a C. And</p> <p>20 it's satisfactory. We're meeting the requirements of</p> <p>21 the contract. But if someone else is evaluating you</p> <p>22 as a potential bidder, they might think, "Oh, well.</p>

Page 106	Page 108
<p>1 Why isn't it very good?"</p> <p>2 So, I sort of cringe about how we might be</p> <p>3 received bidding under Ultima. I think we bid on a</p> <p>4 state job once, because I was like, "They don't care."</p> <p>5 And we didn't win. But with the federal government, I</p> <p>6 have concerns about how we would be received,</p> <p>7 especially because we have a lawsuit, and they might</p> <p>8 just not want to work with us. They might think we're</p> <p>9 awful.</p> <p>10 Q You said that some of your performance</p> <p>11 ratings are coming up as satisfactory. Are you</p> <p>12 referring to performance ratings for the NRCS</p> <p>13 contracts?</p> <p>14 A Yes.</p> <p>15 Q Any others?</p> <p>16 A No. We have good reviews for our other</p> <p>17 contracts. And it depends on the contracting.</p> <p>18 Q Is it fair to say that you're kind of</p> <p>19 holding off a bit on bidding too much to wait and see</p> <p>20 what happens with this lawsuit?</p> <p>21 A No. We've been bidding extensively under</p> <p>22 Lusa. I just worry about not getting work</p>	<p>1 Q Do you keep track of number of bids versus</p> <p>2 number of contracts Ultima won?</p> <p>3 A I don't know. Not formally. I know if we</p> <p>4 bid stuff and didn't get it. I don't know.</p> <p>5 Q So, you don't keep track of Ultima's bidding</p> <p>6 success rate?</p> <p>7 A I mean I just know if we won, or we didn't</p> <p>8 lose. I don't really keep a spreadsheet of wins and</p> <p>9 losses, because I'm the one writing them. So, I know</p> <p>10 if we won them or not.</p> <p>11 Q Approximately how many contracts does Lusa</p> <p>12 bid on each year?</p> <p>13 A So, it depends. Since Ultima started losing</p> <p>14 a lot of work, Ultima's ramped up its bidding a lot.</p> <p>15 Q Sorry. You said Ultima ramped up. Did you</p> <p>16 mean Lusa ramped up?</p> <p>17 A Sorry. Thank you for correcting me. Since</p> <p>18 Ultima started losing all of the NRCS work -- and then</p> <p>19 even though Lusa got some of that work, but we</p> <p>20 understand we're not going to compete with that either</p> <p>21 -- then Lusa has bid on a number of contracts, like a</p> <p>22 lot. I feel like we were really working a lot,</p>
Page 107	Page 109
<p>1 specifically work under Ultima because, let's say, we</p> <p>2 have a contracting officer who's evaluating our</p> <p>3 proposal, and they call the one who conducted our</p> <p>4 CPARS review at NRCS. And then, that person, who may</p> <p>5 or may not even know me, says something sort of</p> <p>6 negative. I'm very, very concerned about that,</p> <p>7 because that would affect our ability to win.</p> <p>8 Q Have you ever bid for a contract and learned</p> <p>9 that you didn't get it because of your CPARS reviews?</p> <p>10 A No. But like I said, we haven't bid so much</p> <p>11 under Ultima just because of the concern I have, too.</p> <p>12 Q Do you keep records of Ultima's bids?</p> <p>13 A I just have copies of them. I submitted</p> <p>14 them.</p> <p>15 Q Electronic copies?</p> <p>16 A Yeah. I might have paper copies, too. I</p> <p>17 don't know. It depends what state you're asking</p> <p>18 about.</p> <p>19 Q How far back do you have them?</p> <p>20 A I don't know. I have a lot of boxes from</p> <p>21 moving. And so, we don't know what's in that. So, it</p> <p>22 could be for a long time. It's a mystery.</p>	<p>1 especially in 2020.</p> <p>2 We've bid extensively on almost anything we</p> <p>3 could find, but it's very hard to win. I think we</p> <p>4 only won one contract, and it was for a small project</p> <p>5 with a proclamation. It was only a one-year term.</p> <p>6 So, I guess that illustrates my point. You can't just</p> <p>7 go bid on 50 procurements, because it's very hard.</p> <p>8 You're up against people who really understand the</p> <p>9 work.</p> <p>10 You may not quite understand it. It's just</p> <p>11 it's really hard to pivot into other entities where</p> <p>12 maybe you don't have direct experience. So, you're</p> <p>13 trying to map it, but maybe other companies can map it</p> <p>14 better.</p> <p>15 Q So, you said you were bidding extensively.</p> <p>16 Lusa was bidding extensively. What are some examples</p> <p>17 of agencies that Lusa was bidding on in 2020?</p> <p>18 A So, I know we bid with NOAA, because I would</p> <p>19 love to work with NOAA. They seem like the nicest</p> <p>20 people. Some agencies aren't that -- seem that</p> <p>21 friendly. So, I always want to get in with NOAA. We</p> <p>22 bid with Department of Energy, which is sort of a</p>

Page 126

1 Q Was it right away, or did you wait a while?

2 A It's so far back, I just don't remember when

3 it started bidding on other contracts.

4 Q Do you recall what the first contract it was

5 that Ultima bid on after you purchased the company?

6 A I recall having a -- excuse me -- a crossing

7 guard contract.

8 Q Was that with a city or local government?

9 A That would have been at Fort Riley, Kansas

10 with the Army.

11 Q So, you basically recruited crossing guards

12 to work there?

13 A Correct.

14 Q How long did that contract last?

15 A Multiple years from what I remember. I

16 don't recall how many exactly.

17 Q Was that contract reserved for small

18 businesses?

19 A Yes. To my recollection, it would have

20 been.

21 Q So, when does Ultima first bid on a contract

22 with the USDA?

Page 127

1 A In 2004.

2 Q And was that for work at NRCS?

3 A Correct.

4 Q And how did you learn about that

5 opportunity?

6 A It was posted online.

7 Q Were you regularly checking contract

8 websites that post contracts to bid on?

9 A Yes.

10 Q At that time, how many contracts would you

11 say you were bidding on in a year for Ultima?

12 A I have no idea. I just can't remember.

13 Q So, what was that first contract with NRCS

14 that Ultima bid on?

15 A It was with the state of South Dakota.

16 REPORTER: I'm sorry. Could you repeat

17 that, Ms. Bennett?

18 THE WITNESS: Sorry. It was with the

19 state of South Dakota. Can you hear me okay?

20 REPORTER: Yes. There's just a bit of

21 a static. When you speak closer into the microphone,

22 there's less of that feedback.

Page 128

1 THE WITNESS: Okay.

2 REPORTER: So, the closer you sit to

3 the microphone.

4 THE WITNESS: Okay.

5 BY MS. GRAY:

6 Q So, at that time, was that just the one NRCS

7 office that you were competing on work for?

8 A Can you clarify office?

9 Q Okay. I'll go back. So, you said it was

10 for the state of South Dakota. Were there multiple

11 NRCS offices in South Dakota?

12 A Yes.

13 Q Okay. So, you were bidding on work to staff

14 all of the NRCS offices in South Dakota, or just

15 particular ones?

16 A I think just particular ones.

17 Q Okay. And Ultima won that contract?

18 A Yes.

19 Q Was that contract reserved for small

20 businesses?

21 A Yes.

22 Q Was it set aside for HUBZone or any other

Page 129

1 specific type of company?

2 A No.

3 Q Do you recall the NAICS code that that

4 contract was in?

5 A No.

6 Q So, what was the type of work that Ultima

7 provided?

8 A I would describe it as administrative and

9 technical services, in a broad sense.

10 Q Can you just describe it more in like plain

11 language? What were the employees actually doing for

12 NRCS?

13 A So, they were assisting NRCS with contracts

14 between the landowners and the NRCS itself, and that

15 could be like the lifecycle of a contract --

16 inception, the application, all the way to funding and

17 monitoring it at closeout. They did a lot of audit

18 support. They could have done a lot of special

19 projects or analysis that might be required, depending

20 on what that office was doing.

21 And they might be assisting in the field,

22 which would be sort of a technical, but also

Page 138	Page 140
<p>1 support services for NRCS. Is that right?</p> <p>2 A What date did you say?</p> <p>3 Q 2017.</p> <p>4 A Correct.</p> <p>5 Q And prior to winning the regional IDIQ</p> <p>6 contracts, what percentage of Ultima's work was for</p> <p>7 NRCS?</p> <p>8 A It might have been 100 percent.</p> <p>9 Q Did Ultima bid on the regional contracts in</p> <p>10 full and open competition?</p> <p>11 A It wasn't full and open. It was total small</p> <p>12 business.</p> <p>13 Q Okay. So, reserved for small businesses,</p> <p>14 because competed for all small businesses?</p> <p>15 A Correct.</p> <p>16 Q Had you been awarded an IDIQ contract</p> <p>17 before, either with Ultima or Lusa?</p> <p>18 A Not to my knowledge.</p> <p>19 Q And your understanding is IDIQ stands for</p> <p>20 indefinite delivery, indefinite quantity.</p> <p>21 A Correct.</p> <p>22 Q And what is your understanding of what that</p>	<p>1 Is that right?</p> <p>2 A Correct.</p> <p>3 Q So, they could potentially last up to five</p> <p>4 weeks. Is that right?</p> <p>5 A Correct.</p> <p>6 Q And the capacity on each base and option</p> <p>7 period was \$2 million. Is that right?</p> <p>8 MR. ROSMAN: Objection to form.</p> <p>9 BY MS. GRAY:</p> <p>10 Q You can answer, if you know.</p> <p>11 A Capacity for each base and each option.</p> <p>12 Correct, yes.</p> <p>13 Q Okay. So, with one base and four option</p> <p>14 periods, the maximum capacity on each contract is \$10</p> <p>15 million. Is that right?</p> <p>16 A Correct.</p> <p>17 Q And is it your understanding that under the</p> <p>18 terms of the contract, USDA could exercise the options</p> <p>19 early?</p> <p>20 A That depends.</p> <p>21 Q Okay. So, in other words, they didn't have</p> <p>22 to wait a full year and then exercise an option for</p>
Page 139	Page 141
<p>1 means?</p> <p>2 A It means you could have multiple orders</p> <p>3 under a base contract.</p> <p>4 Q Prior to your bidding on the contracts in</p> <p>5 2017, had you ever seen NRCS request bids to provide</p> <p>6 administrative or technical support services on a</p> <p>7 regional basis?</p> <p>8 A NRCS, you said?</p> <p>9 Q Yes.</p> <p>10 A Not that I can recall.</p> <p>11 Q Had you ever seen them request bids on a</p> <p>12 national contract to provide administrative or</p> <p>13 technical services?</p> <p>14 A No, not that I can recall.</p> <p>15 Q Typically, would the contracts be for a</p> <p>16 particular state or a particular office in a state?</p> <p>17 A For a particular state, is my experience.</p> <p>18 Q And so, all four of the regional contracts</p> <p>19 were in NAICS code 561110. Is that right?</p> <p>20 A Correct.</p> <p>21 Q And each of the four contracts had a one-</p> <p>22 year base period with four one-year option periods.</p>	<p>1 the next year. They could exercise the option early</p> <p>2 if necessary for some reason. Is that how it worked</p> <p>3 in your understanding?</p> <p>4 A That is how it worked. That was not my</p> <p>5 initial understanding.</p> <p>6 Q Okay. What was your initial understanding?</p> <p>7 A My initial understanding during the bid</p> <p>8 process -- I don't remember how. Anyways, my initial</p> <p>9 understanding was \$2 million per year was all they</p> <p>10 needed, and the IDIQs would go for 10 years. That was</p> <p>11 the expectation of the NRCS.</p> <p>12 Q You mean five years?</p> <p>13 A Or five. I'm sorry. For five years. So,</p> <p>14 \$10 million was the ceiling. You had \$2 million per</p> <p>15 year, and it didn't need -- I had submitted a question</p> <p>16 if they needed more than that. They said no, and that</p> <p>17 it would go five years, but that was their</p> <p>18 expectation.</p> <p>19 Q Did NRCS exercise options early?</p> <p>20 A Yes.</p> <p>21 Q Do you recall how many times?</p> <p>22 A No.</p>

<p style="text-align: right;">Page 210</p> <p>1 for that contract? Is that because you just haven't</p> <p>2 gotten paid for that contract yet because it's too</p> <p>3 new?</p> <p>4 A Oh, yeah. So, that contract, we only</p> <p>5 invoiced one time upon the completion of the work.</p> <p>6 So, if it says zero, it's because we probably hadn't</p> <p>7 invoiced or received any payment at the time that this</p> <p>8 was created.</p> <p>9 Q Do you think that the woman-owned small</p> <p>10 business program discriminates against men?</p> <p>11 A I think that any set-aside that's not total</p> <p>12 small business discriminates against somebody.</p> <p>13 Q Do you think set-asides for small business</p> <p>14 discriminate against businesses that are not small?</p> <p>15 A By definition, that would be true.</p> <p>16 Q Do you think it's not fair that businesses</p> <p>17 not owned by men can't bid on certain contracts?</p> <p>18 A Do I think it's not fair that men...? I would</p> <p>19 agree that I think that that's unfair. Yes.</p> <p>20 Q So, then why did you apply for the women-</p> <p>21 owned small business program?</p> <p>22 A Because I don't set the rules, and I need to</p>	<p style="text-align: right;">Page 212</p> <p>1 you understand that the size standards for small</p> <p>2 businesses vary based on the NAICS code. Correct?</p> <p>3 A I understand that, yes.</p> <p>4 Q And is it your understanding that the size</p> <p>5 standards are based on the business's annual receipts?</p> <p>6 A Correct.</p> <p>7 Q And when Ultima was a subsidiary of Lusa, do</p> <p>8 you understand that in determining whether one or the</p> <p>9 other was a small business, that they had to be</p> <p>10 combined, that the receipts of both companies were</p> <p>11 combined?</p> <p>12 A It's my understanding that that's true</p> <p>13 whether or not Ultima is a subsidiary of Lusa or not.</p> <p>14 Yes.</p> <p>15 Q Okay. So, since you've restructured, you</p> <p>16 don't think that that's changed?</p> <p>17 A In terms of their eligibility as small under</p> <p>18 certain NAICS codes, no. The rules are the same</p> <p>19 because I own them both.</p> <p>20 Q Okay. So, for NAICS Code 561110, do you</p> <p>21 know what the size standard is?</p> <p>22 A In terms of just the NAICS code, like gross</p>
<p style="text-align: right;">Page 211</p> <p>1 play. I have to do what I can to compete in the</p> <p>2 environment set forth by the government to compete for</p> <p>3 contracts.</p> <p>4 Q So, while Ultima was a subsidiary of Lusa,</p> <p>5 you understand that Ultima was not eligible to apply</p> <p>6 for the woman-owned small business program. Right?</p> <p>7 A Do I understand that now? Sure.</p> <p>8 Q Okay. At the time you structured it that</p> <p>9 way, you didn't understand that?</p> <p>10 A No. Because if you're owned by me and</p> <p>11 stuff, actually, that everything's women-owned. So, I</p> <p>12 thought it was sort of a transitive property that</p> <p>13 extended down to a subsidiary company.</p> <p>14 Q Now that you've restructured Ultima so that</p> <p>15 you're the direct owner, do you plan to apply for the</p> <p>16 woman-owned small business program for Ultima?</p> <p>17 A I'm eligible to do so now. I haven't</p> <p>18 thought about it because I've been working on all of</p> <p>19 these other things.</p> <p>20 Q Okay. Now, we're going to move into Topic</p> <p>21 5, which is information related to Ultima's status as</p> <p>22 a small business as defined by SBA regulations. So,</p>	<p style="text-align: right;">Page 213</p> <p>1 receipts over the (inaudible), yes.</p> <p>2 Q Yeah, okay. Is it \$8 million? Is that what</p> <p>3 you --</p> <p>4 A Currently it is, yes.</p> <p>5 Q Okay. We had served some requests for</p> <p>6 admission. I think you provided this back in June,</p> <p>7 and I understand things can change. But in your</p> <p>8 response to a request for admission, you admitted that</p> <p>9 Ultima did not meet the small business size standard</p> <p>10 for 561110. Do you recall that?</p> <p>11 A I don't actually think that's totally</p> <p>12 accurate.</p> <p>13 Q Okay. Why is that?</p> <p>14 A Because it really depends on what's going on</p> <p>15 with the business. So, under our current contracts,</p> <p>16 we are small under that NAICS code.</p> <p>17 Q So, is it accurate to say that there have</p> <p>18 been times where Ultima has exceeded the small</p> <p>19 business standard for 561110?</p> <p>20 A It depends on what type of contract you're</p> <p>21 talking about.</p> <p>22 Q Okay. Well --</p>

Page 234

1 more capital than me. So, it's conceivable then that
 2 they could perform work that I couldn't perform.
 3 Q Have you ever been denied a loan in the last
 4 five years?
 5 A Yes.
 6 Q Okay. When?
 7 A I think a few times.
 8 Q Okay. When was the most recent time?
 9 A I don't remember the most recent time when
 10 it happened.
 11 Q Was it within the last year?
 12 A No.
 13 Q Within the last two years?
 14 A Two years. No.
 15 Q Within the last three years?
 16 A Yeah. So, I would say within maybe the last
 17 three years.
 18 Q Okay. And were you applying for a loan in a
 19 personal capacity or for one of your businesses?
 20 A For one of my businesses.
 21 Q Which one?
 22 A Lusa.

Page 235

1 Q What was the amount that you were seeking?
 2 A I was just seeking an increase to our line
 3 of credit.
 4 Q And is that what you referred to? I think
 5 in one of your interrogatory responses, you said you
 6 were denied a requested increase in a credit line at
 7 Wells Fargo.
 8 A Yes.
 9 Q Okay. And you said that the stated reason
 10 was inadequate past performance. Do you know what
 11 Wells Fargo was referring to by inadequate past
 12 performance?
 13 A Yes.
 14 Q What?
 15 A So, basically, if you're a traditional bank,
 16 you don't lend on a forward-looking basis. You lend
 17 on a past performance basis. And so, we didn't have
 18 enough past performance for them to feel comfortable
 19 to merit an increase in our line, and they also -- I
 20 don't know if we responded to this. They also said I
 21 didn't have enough available money as a guarantor to
 22 support an increase, because it's an uncollateralized

Page 236

1 loan. So, my guarantee matters more than maybe for
 2 other businesses.
 3 Q And what was your line of credit where you
 4 sought the increase?
 5 A \$350,000.00.
 6 Q What were you seeking to increase it to?
 7 A I didn't have a specified amount. I just
 8 wanted to have discussions about increasing it.
 9 Q And were there any other times than that in
 10 the last five years?
 11 A In the last five years, no.
 12 Q Any times before the last five years?
 13 A Yes.
 14 Q How many other times were you denied a loan?
 15 A Multiple times with multiple banks over the
 16 span of -- I don't know -- from five years ago to
 17 maybe 10 years before that. I don't know the dates.
 18 Q Were all of those related to business loans?
 19 A Yes, they were.
 20 Q When you were denied that line of credit
 21 increase at Wells Fargo, were you able to obtain that
 22 credit anywhere else?

Page 237

1 A Yes.
 2 Q Where?
 3 A A couple of sources -- three sources. I
 4 sought financing from TRAX, which is a large prime
 5 company. I sought financing from myself. I sought
 6 financing from my father and then also from the bank
 7 itself. And then, at some point, I also received a
 8 PPP loan, if you're familiar with those. So, I was
 9 able to receive financing, and then I had received an
 10 approval for financing but didn't use the company or
 11 one or two companies that approved me for financing.
 12 I didn't use them.
 13 Q Okay. How much was the total financing that
 14 you were able to receive at that time?
 15 A All together?
 16 Q Yes.
 17 A It was substantial at times. I would say
 18 over \$500,000.00.
 19 Q Okay. You said you received some from the
 20 bank. Were you referring to Wells Fargo or a
 21 different bank?
 22 A It depends on the loan. So, the PPP money

Page 238	Page 240
<p>1 was not from Wells Fargo. It was from a bank called</p> <p>2 Middlefield Bank, but the bank does refer to Wells</p> <p>3 Fargo in our state credit facility.</p> <p>4 Q Okay. So, they did you give you some amount</p> <p>5 of money?</p> <p>6 A They just maintained the amount that we had</p> <p>7 had in the past. They refused to increase the amount.</p> <p>8 Q Okay. And you said that you got some for</p> <p>9 yourself. How much was that?</p> <p>10 A I have no idea.</p> <p>11 Q More than \$100,000.00?</p> <p>12 A I don't know. It's possible, but I just</p> <p>13 have no idea.</p> <p>14 Q How much did you get from your father?</p> <p>15 A I know that was more than \$100,000.00.</p> <p>16 Q And when was this?</p> <p>17 A I don't know. In the past five years.</p> <p>18 Q And have you paid that money back?</p> <p>19 A No, not to him specifically, no. I still</p> <p>20 have it as a liability on my books.</p> <p>21 Q Is he charging interest?</p> <p>22 A No, not formally.</p>	<p>1 know him. I know the project managers.</p> <p>2 Q Okay. Do you still have family who works in</p> <p>3 that company?</p> <p>4 A No. There's no other family.</p> <p>5 Q Is he somebody who worked for your dad when</p> <p>6 he owned the company?</p> <p>7 A No. They didn't, to my knowledge, even know</p> <p>8 each other.</p> <p>9 Q So, he just purchased the company from your</p> <p>10 father?</p> <p>11 A Correct.</p> <p>12 Q And when you said that you obtained credit</p> <p>13 from TRAX, was that after your father had retired, or</p> <p>14 while he was still the owner of the company?</p> <p>15 A He was still the owner of the company.</p> <p>16 Q And how much did you get from TRAX?</p> <p>17 A I just don't remember.</p> <p>18 Q Was it more than \$100,000.00?</p> <p>19 A Yes, yes. I think it was more. I think it</p> <p>20 was like -- I don't know. At times, it could have</p> <p>21 been substantial, like I said, like \$500,000.00 maybe,</p> <p>22 but I don't remember, because it was a credit</p>
Page 239	Page 241
<p>1 Q What does your father do?</p> <p>2 A He's retired.</p> <p>3 Q From what business?</p> <p>4 A From what government contracting, from doing</p> <p>5 the same type of business.</p> <p>6 Q What kind of industries did he contract for</p> <p>7 work in?</p> <p>8 A I would say they were engineering, like a</p> <p>9 ton of -- engineering services, logistics, and I don't</p> <p>10 know what else he would have done. I don't know.</p> <p>11 Q What was the name of his company?</p> <p>12 A It was TRAX International.</p> <p>13 Q And who is the current owner of TRAX?</p> <p>14 A A person by the name of Brian -- I'm trying</p> <p>15 to think. I can't remember his last name. Oh, gosh.</p> <p>16 I think it's Brian Clark, I think. It might be Brian</p> <p>17 Smith. There's a few Brians. So, I just can't</p> <p>18 remember right now.</p> <p>19 Q Do you know him in a personal capacity?</p> <p>20 A The Brian? No.</p> <p>21 Q The current owner of TRAX.</p> <p>22 A Oh, no, no. No, no, no. I don't really</p>	<p>1 facility. So, it would go up and down. It wasn't</p> <p>2 just like a term loan where it's a set amount of</p> <p>3 money.</p> <p>4 Q Did TRAX charge you interest?</p> <p>5 A Yes.</p> <p>6 Q Have you paid that back?</p> <p>7 A Yes. I had to pay that on a schedule, and I</p> <p>8 paid all of the principal and interest on time, you</p> <p>9 know, on schedule until they closed it.</p> <p>10 Q When did you get that credit from TRAX?</p> <p>11 A It would have been when I had a substantial</p> <p>12 increase in my business from the IDIQ (inaudible).</p> <p>13 So, around that time, I just don't recall exactly</p> <p>14 when.</p> <p>15 Q Was it in the last few years?</p> <p>16 A I mean it's the last two years, but I think</p> <p>17 it was sort of coincidental with the big ramp-up of</p> <p>18 our business with NRCS.</p> <p>19 Q Okay. When you say our business, do you</p> <p>20 mean Lusa or Ultima?</p> <p>21 A I mean just me referring to my companies as</p> <p>22 ours.</p>

Page 246	Page 248
<p>1 I thought was inappropriate, at least as it applied to</p> <p>2 facts other than facts related to the businesses that</p> <p>3 she owns. So, we maintain that objection.</p> <p>4 MS. GRAY: Okay. I'm just asking for</p> <p>5 the factual basis you have for some of the</p> <p>6 allegations.</p> <p>7 MR. ROSMAN: Right. But there are some</p> <p>8 allegations in here which were resulting from</p> <p>9 attorneys' investigation. And so, I'm not sure she'd</p> <p>10 be able to answer that question entirely without</p> <p>11 reference to that. So, that's my objection.</p> <p>12 MS. GRAY: All right.</p> <p>13 BY MS. GRAY:</p> <p>14 A I kind of agree. I feel like I really can't</p> <p>15 fully answer that.</p> <p>16 Q So, Defendants had asked you to produce</p> <p>17 documents related to this contention, and you</p> <p>18 responded that you do not have any such documents. Is</p> <p>19 that right?</p> <p>20 A Where did I respond to that?</p> <p>21 Q That was in your request for production.</p> <p>22 You don't have to remember that. But do you have any</p>	<p>1 already available?</p> <p>2 MR. ROSMAN: Well, I guess I'll</p> <p>3 continue to object. If you can answer the question,</p> <p>4 go ahead.</p> <p>5 BY MS. GRAY:</p> <p>6 A I mean, I don't know, because it's my</p> <p>7 understanding that those groups are treated</p> <p>8 differently under the program than white applicants.</p> <p>9 So, I don't know how they would be treated under the</p> <p>10 existing structure of the program.</p> <p>11 Q Okay. Is it fair to say that -- You know</p> <p>12 what? Strike that. So, you also said that in the</p> <p>13 absence of the presumption, far fewer contracts would</p> <p>14 be reserved for the Section 8A program. Is that</p> <p>15 right?</p> <p>16 A I think that's just a logical question. If</p> <p>17 there are no company, or companies aren't in the 8A</p> <p>18 program, then you wouldn't have so many set-asides for</p> <p>19 the 8A program. I don't really know what the question</p> <p>20 is.</p> <p>21 Q No, that's fine. And okay, that's fine.</p> <p>22 Okay. And then, in Paragraph 20, it says, "In the</p>
Page 247	Page 249
<p>1 documents that would support this contention that</p> <p>2 fewer firms would qualify for Section 8A firms without</p> <p>3 the presumption?</p> <p>4 A I feel like the government would have some</p> <p>5 of these documents.</p> <p>6 Q And so, what is your basis for making that</p> <p>7 allegation that fewer firms would qualify without the</p> <p>8 presumption?</p> <p>9 MR. ROSMAN: I'm going to repeat my</p> <p>10 objection.</p> <p>11 BY MS. GRAY:</p> <p>12 A Well, because if they're not presumed to be</p> <p>13 that, then they can't receive the contract under the</p> <p>14 8A program.</p> <p>15 Q Well, do you understand that the 8A program</p> <p>16 currently includes an option for individuals to</p> <p>17 establish social disadvantage by submitting evidence</p> <p>18 of disadvantage?</p> <p>19 A I understand that, but I know it's a farce.</p> <p>20 So, technically, I understand that.</p> <p>21 Q But if there was no presumption, couldn't</p> <p>22 those companies just go through the application that's</p>	<p>1 absence of SBA's presumption, Ultima would have far</p> <p>2 more opportunities to bid on contracting opportunities</p> <p>3 with the USDA." Did I read that correctly?</p> <p>4 A Yes.</p> <p>5 Q And how do you know this to be true?</p> <p>6 A Well, because I've had contracts that were</p> <p>7 set or cancelled, or funds weren't added, or I was</p> <p>8 stopped from competing because the contracts were</p> <p>9 given to other 8A firms who were presumed socially</p> <p>10 disadvantaged, when I am white, and I'm not presumed</p> <p>11 socially disadvantaged. And I wouldn't be a</p> <p>12 participant in the 8A program because of that.</p> <p>13 Q So, we're going to move down to Paragraph</p> <p>14 22. So, Ultima's owner is not a member of a racial</p> <p>15 minority. What is your race?</p> <p>16 A White, Caucasian.</p> <p>17 Q And have you ever applied for the 8A program</p> <p>18 for either Ultima or Lusa?</p> <p>19 A No.</p> <p>20 Q Why not?</p> <p>21 A Because I am white, and I would never be</p> <p>22 accepted into the program. I really view it as kind</p>



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Email: Erratas-CS@veritext.com

June 14, 2022

To: Juliet Gray

In Re: Ultima Services Corporation v US Department Of Agriculture Et Al

Veritext Reference Number: 5106487

Witness: Celeste Bennett

Deposition Date: March 16, 2022

Dear Sir/Madam:

Enclosed you will find the executed errata sheet in regards to the matter referenced above.

This is being sent to your office as you handled the direct examination of the witness.

Veritext has saved a copy of the errata and has forwarded copies to all counsel who received a transcript in this matter. Please keep this for your records.

If you have any questions, please call the above number and ask to speak with the production department.

Sincerely,
Production Department

Encl.

CC: Michael E. Rosman

ERRATA SHEET
 VERITEXT CORPORATE SERVICES
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ASSIGNMENT NO. CS5106487

CASE NAME: Ultima Services Corporation v. US Department Of
 Agriculture Et Al

DATE OF DEPOSITION: 3/16/2022

WITNESS' NAME: Celeste Bennett

PAGE/LINE(S)/	CHANGE	REASON
22, 5-6	delete text and change to "No. I worked on a company (which might never have been incorporated) called NucleNet at some point around or before LUSA was started." Reason: I misremembered.	
44, 7	delete "a" and replace "fart" with "fog" Reason: mistranscribed	
45, 18-19	delete "because that's just the group where the people are doing the work" Reason: I do not think I said this and it does not make sense.	
73, 5	replace "good" with "sought out" Reason: mistranscribed	
73, 7	replace "know" with "think" Reason: I misspoke.	
74, 21	replace "know" with "notify" Reason: mistranscribed	
84, 11	replace "541611" with "561110" Reason: Ultima's correct NAICS code today is 561110.	
85, 13	replace "rewards" with "awards" Reason: mistranscribed	
85, 13	replace "competitive" with "competition" Reason: mistranscribed	
85, 15	replace "reward" with "award" Reason: mistranscribed	
104, 13	delete "at our sister organization" Reason: We do not have a sister organization and I do not believe I said this.	
106, 16	add "officer" after "contracting" Reason: mistranscribed	
108, 6-7	replace "we didn't lose" with "if we lost" Reason: mistranscribed	
109, 4	delete "a proclamation" replace with "the Bureau of Reclamation" Reason: mistranscribed	
109, 10	replace "entities" with "areas" Reason: mistranscribed	

- 109, 11-13 delete "So you're trying to map it, but maybe other companies can map it better." Reason: Must be mistranscribed as I do not believe I said this.
- 113, 3 replace "can" with "can't" Reason: mistranscribed
- 134, 17 replace "in the Army" with "for the bid" Reason: mistranscribed
- 135, 7 delete "Yes, correct." Replace with "No. LUSA won a competitive contract in California." Reason: I misspoke.
- 169, 11 replace "got" with "were" Reason: mistranscribed
- 188, 9-10 delete "some kind of purchase for them" Reason: Mistranscribed. I do not think I said this.
- 201, 8-9 delete all text and replace with "work that falls under the engineering NAICS code" Reason: I misspoke.
- 261, 16 replace "program" with "problem" Reason: mistranscribed
- 266, 12-13 delete "that's fine. Guess we're not going to change it" replace with "that they weren't going to change the rating." Reason: mistranscribed
- 266, 22 replace "Ells" with "Alves" Reason: mistranscribed

I, Celeste Bennett declare that I have read the foregoing transcript, I have made any corrections, additions, or changes I deemed necessary as noted above to be appended hereto, and that the same is a true, correct and complete transcript of the testimony given by me.

Signed June 14, 2022.



Celeste Bennett